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A Memorial

IN BEHALF OF THE ARCHITECT OF OUR FEDERAL CONSTITUTION

Pelatiah Webster
of Philadelphia, Pa.

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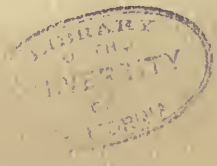
by
Hannis Taylor



Presented by Mr. CARTER, May 4, 1908.—Ordered to be printed.

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Author's Note.

Herein is reprinted, for the first time in 116 years, the epoch-making paper published by Pelatiah Webster at Philadelphia, February 16th, 1783, and there republished with notes in 1791, in which he announced to the world, *as his invention*, the entire plan of the existing Constitution of the United States, worked out in detail more than four years before the Federal Convention of 1787 met.

HANNIS TAYLOR.

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To the Congress of the United States:

The purpose of this memorial is twofold: First, to place in the hands of Congress the data for a new and pivotal chapter in the history of the Constitution that will impress upon succeeding generations the all-important fact that every basic principle which differentiates our existing Federal system from all that have preceded it was a part of a single invention struck off at a given time by the brain and purpose of one man; second, to press upon Congress the long neglected duty of honoring, by an appropriate monument, the memory of an American statesman and patriot who has made a larger personal contribution to the science of government than any other one individual in the history of mankind. From the data thus presented it clearly appears that among our nation builders Pelatiah Webster stands second to Washington alone. All the world understands in a vague and general way that certain path-breaking principles entered into the structure of our second Federal Constitution of 1789 which differentiate it from all other systems of federal government that have preceded it. M. de Tocqueville gave formal expression to that understanding when he said: "This Constitution, which may at first be confounded with federal constitutions that have preceded it, rests in truth upon *a wholly novel theory which may be considered a great discovery in modern political science.* In the confederations that preceded the American Constitution of 1789, the allied states, for a common object, agreed to obey the injunctions of a federal government; but they reserved to themselves the right of ordaining and enforcing the execution of the laws of the Union. The American States, which combined in 1789, agreed that the federal government should not only dictate, but should

execute its own enactments. In both cases the right is the same, but the exercise of the right is different; and this difference produced the most momentous consequences."* Mr. Gladstone simply reiterated that idea when he said: "As the British Constitution is the most subtile organism which has proceeded from progressive history, so the American Constitution is the most wonderful work ever struck off at a given time by the brain and purpose of man." That master of the history of English institutions perfectly understood that as our state constitutions are mere reproductions, mere evolutions from the English political system, so our second federal constitution is a new invention "struck off at a given time by the brain and purpose of man."

That invention of a new type of federal government, embodying, as Tocqueville said, "a wholly novel theory," is so unique that it can no more be confounded with any preceding federal government than a modern mogul engine can be confounded with an ancient stage coach. Did that wonderful invention, which has produced such momentous consequences, have a personal author, like all other inventions; or was it revealed at the same moment, and in some mysterious way, to a large number of persons, thinking and acting in isolation? Upon that humanely impossible or miraculous theory historians of our existing constitution have attempted to explain the origin of the unique and prearranged plan of federal government presented to the Convention which sat at Philadelphia during the 125 days that intervened between May 14 and September 17, 1787. After deducting recesses and holidays, there could not have been more than 90 working days. No one has ever contended, or can ever contend, that the great invention in question was made *after the Convention met*, for the simple and conclusive reason that it was the basis of all the "plans" save one, carefully constructed beforehand, out of which the Constitution was evolved. Five and only five "plans," all

*Democracy in America, vol. i, pp. 198, 199.

prearranged, were submitted to the Convention, viz, the Virginia plan, the Charles Pinckney plan, the Connecticut plan, the Alexander Hamilton plan, and the New Jersey plan. As the last only proposed a revision of the Articles of Confederation it may be dismissed from consideration. There were but four plans in which proposals for a new system of federal government were embodied, each resting upon the "wholly novel theory" which has produced "the most momentous consequences."

A distinguished specialist has well said that "the Virginia plan became the rock-bed of the Constitution.* That plan, which embodied perfectly every phase of the great invention, was drafted by Madison, who began his preparation for the labors of the Convention at least a year before it met.† In December, 1786, we find him in active correspondence with Jefferson, then at Paris, as to the Virginia plan.‡ The marvel is that the historians who are supposed to have explored the sources have never taken the pains to ask this simple and inevitable question—*From what common source did the draftsmen of the four plans draw the path-breaking invention which was the foundation of all of them?* Let it be said to the honor of those draftsmen that no one of them ever claimed to be the author of that invention. Neither Madison, nor Charles Pinckney, nor Sherman, nor Ellsworth, nor Hamilton, nor any of their biographers, so far as the writer is informed, ever set up such a claim in behalf of any one of them. The answer to "the simple and inevitable question" just propounded is this: The common source from which the draftsmen of the four plans drew the path-breaking invention underlying them all was "A Dissertation on the Political Union and Constitution of the thirteen United States of North America," published at Philadelphia by

* Meigs, *The Growth of the Constitution in the Federal Convention of* 1787, p. 17.

† See *Rives' Life and Times of Madison*, vol. ii, p. 208, "Preparations of Madison for labors of Federal Convention."

‡ See letter of Jefferson to Madison of December 16, 1786, in *Jefferson's Correspondence*, by T. J. Randolph, vol. ii, pp. 64, 65.

Pelatiah Webster, February 16, 1783, and there republished by him with copious notes in 1791, and herein reproduced for the first time after the lapse of 116 years. In that immortal paper, whose lightest words are weighty, he gave to the world, *as his personal contribution to the science of government, and as an entirety worked out in great detail* the "wholly novel theory" of federal government upon which reposes the existing Constitution of the United States.

Prior to the date in question no single element of that theory had ever been propounded by anyone. In a note appended to the republication of 1791 the great inventor gives the following account of the circumstances under which the invention was made: "At the time when this Dissertation was written (February 16, 1783) the defects and insufficiency of the Old Federal Constitution were universally felt and acknowledged; it was manifest, not only that the internal police, justice, security, and peace of the States could never be preserved under it, but the finances and public credit would necessarily become so embarrassed, precarious, and void of support, that no public movement, which depended on the revenue, could be managed with any effectual certainty: but tho' the public mind was under full conviction of all these mischiefs, and was contemplating a remedy, YET THE PUBLIC IDEAS WERE NOT AT ALL CONCENTRATED, MUCH LESS ARRANGED INTO ANY NEW SYSTEM OR FORM OF GOVERNMENT, which would obviate these evils. Under these circumstances, I offered this Dissertation to the public: how far the principles of it were adopted or rejected in the New Constitution, which was four years afterwards (Sept. 17, 1787) formed by the General Convention, and since ratified by all the States, is obvious to every one."

At the same time he added: "I was fully of opinion (tho' the sentiment at that time would not very well bear) that it would be ten times easier *to form a new Constitution than to mend the old one.* I therefore sat myself down to sketch out the *leading principles of that political Constitution*, which

I thought necessary to the *preservation and happiness* of the United States of America, which are comprised in this Dissertation. I hope the reader will please to consider that these are the original thoughts of a private individual, dictated by the nature of the subject only, long before the important theme became the great object of discussion in the most dignified and important assembly which ever sat or decided in America." The great inventor perfectly understood the merits of his own case which he thus stated with the lucidity of a Greek and the terseness of a Roman. As early as 1781 Pelatiah Webster was the first to propose to the people of the United States, in one of his financial essays published at Philadelphia in May of that year, the calling of "a Continental Convention" for the making of a new Constitution.* In bearing testimony to that fact, Madison said that Pelatiah Webster, "after discussing the fiscal system of the United States, and suggesting, among other remedial provisions, one including a national bank, remarks, that 'the authority of Congress is very inadequate to the performance of their duties; and this indicates the necessity of their calling a *Continental Convention* for the express purpose of ascertaining, defining, enlarging, and limiting the duties and powers of their Constitution.' "† Two years after he had thus sounded the tocsin for the States to assemble he made the invention and published to the world, in detail, the plan upon which the Constitution was to be formed. While the historian Bancroft‡ failed to appreciate the stupendous importance of his work, he frankly admits that he actually performed it when he says: "The public mind was ripening for a transition from a confederation to a real government. Just at this time Pelatiah Webster, a

*The fact that "Alexander Hamilton made the same suggestion *in a private letter* to James Duane, September 3, 1780," is of no importance. It was not a public act, not even a public declaration. See Gaillard Hunt's "Life of James Madison," p. 108.

†The Madison Papers (1841), vol. ii, pp. 706–7.

‡History of the Constitution of the United States, vol. i, p. 86.

graduate of Yale College, in a dissertation published at Philadelphia, proposed for the legislature of the United States *a congress of two houses* which should have ample authority for making laws 'of general necessity and utility,' *and enforcing them as well on individuals as on States.* He further suggested not only heads of executive departments, but judges of law and chancery. The tract awakened so much attention that it was reprinted in Hartford, and called forth a reply."* In both of the scanty and stingy biographical notices of him in the leading American encyclopædias, the statement is made that his plan "is mentioned by James Madison as having an influence in directing the public mind to the necessity of a better form of government." Pelatiah Webster needs the admissions neither of Madison nor Bancroft to establish his title to the authorship of the "wholly novel theory" now embodied in the Constitution of the United States, because that title rests upon contemporary documentary evidence as clear and convincing as that upon which rests Jefferson's title to the authorship of the Declaration of Independence. If that be true, then he has made a larger personal contribution to the science of government than any other one individual in the history of mankind. Among our nation-builders he stands second to Washington alone.

And yet among them all he only has been neglected and forgotten by his countrymen, not through any conscious omission, but because of a careless historical scholarship which has failed to present his great achievement in its true light. That conviction has impelled the undersigned—who has devoted more than thirty years to the special study of the origin and growth of our constitutional systems, State and Federal—to present to the Congress herein, very briefly, the historical data upon which Pelatiah Webster's right to immortality depends. He it was who first suggested the separate existence of the two Houses of Congress, when, in

*It was replied to anonymously by Roger Sherman.

1783, he said, "That the *Congress shall consist of two Chambers*, an *Upper* and *Lower* House, or *Senate* and *Commons*, with the *concurrence of both necessary to every act;* and that every State send one or more delegates to each House: this will subject every act to *two* discussions before *two distinct* chambers of men equally *qualified* for the debate, equally *masters* of the subject, and of equal *authority* in the decision."*

Prior to that utterance no *Federal Assembly*, ancient or modern, had ever consisted of two chambers; no one had ever suggested such an idea. If after a careful examination of all the facts the Congress shall deem the architect of our Federal Constitution unworthy of a monument, the undersigned prays in his behalf that this humble memorial may be embodied in its records so that succeeding generations may determine for themselves whether or no his work has been justly judged.

I.

FEDERAL GOVERNMENTS PRIOR TO AND INCLUDING THAT OF 1776.

From the days of the Greek Leagues down to the making of the second constitution of the United States, all federal governments had been constructed on a single plan at once clumsy and inefficient. The most perfect of the Greek Leagues was the Achaian, of which the framers really knew nothing, as we learn from Madison who tells us in the Federalist (xviii) that "could the interior structure and regular operation of the Achaian League be ascertained, it is probable that more light might be thrown by it on the science of federal government than by any like experiments with which we are acquainted." The coveted knowledge was not accessible because the historical scholars who have since passed beyond the Greece of Thucydides into the Greece of Polybios, who have passed beyond the period in which the independent

*The italics in all the quotations from Pelatiah Webster's paper are his own.

city-commonwealth was the dominant political idea into the later and less brilliant period of Hellenic freedom occupied by the history of Greek frederalism, had not then completed their investigations, only fully worked out in very recent years.* Such scanty knowledge as the framers did possess of Greek federalism seems to have been chiefly drawn from the little work of the Abbé Mably, *Observations sur l'Histoire de Gréce* (Federalist, xviii). The only federal governments with whose internal organizations the builders of our Federal Republic were really familiar, and whose histories had any practical effect upon their work, were those that had grown up between the Low-Dutch communities at the mouth of the Rhine, and between the High-Dutch communities in the mountains of Switzerland, and upon the plains of Germany (Federalist, xix, xx). Down to the making of the second constitution of the United States, the Confederation of Swiss Cantons, the United Provinces of the Netherlands, and the German Confederation really represented the total advance made by the modern world in the structure of federal governments.

Such advance was embodied in the idea of a federal system made up of a union of states, cities or districts, representatives from which composed a single federal assembly whose limited powers could be brought to bear, not upon individual citizens, but only upon cities or states as such. The fundamental principle upon which all such fabrics rested was the requisition system, under which the federal assembly was only endowed with the power to make requisitions for men and money upon the states or cities composing the league for federal purposes, while the states, alone, in their corporate capacity possessed the power to execute them. The initial effort of the English colonies in America along the path of federal union ended with the making of the first constitution of the United States embodied in the Articles of

*The first volume (History of Greek Federations) of Edward A. Freeman's great History of Federal Government was not published until 1863.

Confederation. Up to that point nothing new had been achieved; the fruit of the first effort was simply a confederation, constructed upon a plan over two thousand years old, which could only deal through the requisition system with states as states. That confederation possessed no power (1) to operate directly upon the individual citizen; (2) it had no independent power of taxation; (3) the federal head was not divided into three departments—executive, legislative, and judicial; (4) the federal assembly consisted of one chamber instead of two.* The lack of power to levy and collect for itself federal or national taxes rendered our first Federal Government preeminently a failure as a financial system, dependent as it was upon the will of thirteen independent legislatures.

II.

PELATIAH WEBSTER'S INVENTION AND THE SECOND FEDERAL CONSTITUTION OF 1787.

The most scientific writer upon finance during the Revolutionary War was Pelatiah Webster, whose essays on that subject fill a volume.† He was born at Lebanon, Connecticut, in 1725, and graduated at Yale College in 1746. In 1755 he removed to Philadelphia, where he became a prosperous merchant, and in due time an ardent supporter of the patriot cause in the War of the Revolution, aiding with pen and purse. He was captured by the British, and, on account of his ardor was imprisoned for four months. As early as October, 1776, he began to write on the currency, and in 1779 he commenced the publication at Philadelphia of a series of "Essays on Free Trade and Finance." He was sufficiently important as a political economist to be consulted by the Continental Congress as to the resources of the country. His financial studies soon convinced him that

* See Pelatiah Webster's masterful analysis of the first Constitution contained in his Notes published in 1791, *infra*, p. 48.

† The second edition of 1791 was "Printed and sold by Joseph Crukshank, No. 91, High Street," Philadelphia.

no stable fiscal system could be established until the then existing federal government was wiped out and superseded by one endowed with independent taxing power. Therefore, as early as 1781, in one of his financial essays, he made the first public call for the "Continental Convention," referred to by Madison, to be armed with power to devise an adequate system of federal government. Having thus taken the first step, he set himself to work to formulate in advance such an adequate system as the Convention should adopt, whenever it might meet. In the great tract published at Philadelphia, February 16, 1783, we have photographed for us the workings of his mind as he moved along paths never trod before. He sounded the keynote when he declared: "They (the supreme power) *must therefore of necessity be vested with a power of taxation.* I know this is a most important and weighty truth, a dreadful engine of oppression, tyranny, and injury, when ill used; yet, *from the necessity of the case*, it must be admitted.

"For to give a supreme authority a power of making *contracts*, without any power of *payment;* of appointing *officers*, civil and military, without money to *pay* them; power to *build ships*, without *any money* to do it with; a power of *emitting money*, without any power to *redeem* it; or of *borrowing* money, without any power to make payment, etc.—such solecisms in government are so nugatory and absurd that I really think to offer further argument on the subject would be to insult the understanding of my readers. To make all these payments dependent on the votes of *thirteen popular assemblies*, who will undertake to judge of the propriety of every contract and every occasion of money, and *grant* or *withhold* supplies according to their opinion, whilst at the same time the operation of the whole may be stopped by the vote of a single one of them, is absurd." Thus Pelatiah Webster proposed the existing system of federal taxation, then entirely new, to the world; thus he proposed that the ancient system of requisitions, resting on the taxing power

of the states, should be superseded by a system of federal or national taxation extending to every citizen, directly or indirectly. Instead of the lifeless system of absurdity embodied in the Articles of Confederation, he proposed to substitute a self-executing and self-sustaining national system, based on the following propositions, stated in his own language: "*The supreme authority of any State must have power enough to affect the ends of its appointment*, otherwise these ends cannot be answered and *effectually secured.* * * * I begin with my first and great principle, viz, *That the Constitution must vest powers in every department sufficient to secure and make effectual the ends of it.* The supreme authority must have the power of *making war* and *peace*—of *appointing armies* and *navies*—of appointing *officers both civil* and *military*—of making *contracts*—of *emitting*, *coining*, and *borrowing money*—of *regulating trade*—of making *treaties with foreign powers*—of establishing *post-offices*—and, in short, of doing *everything* which the *well-being* of the Commonwealth may require, and which is *not compatable* to any particular State, all of which require money, and cannot possibly be made effectual without it. * * * This tax can be laid by the supreme authority much more conveniently than by the particular Assemblies, and would in no case be subject to their *repeals* or *modifications;* and of course the public credit would never be dependent on, or liable to bankruptcy by the *humors* of, any particular assembly. * * * The delegates which are to form that august body, which are to hold and exercise the supreme authority, ought to be *appointed by the States in any manner they please.*" In formulating his conclusions as to the supremacy of federal law acting directly on all citizens, he said: "(1) *No laws of any State whatever which do not carry in them a force which extends to their effectual and final execution can afford a certain or sufficient security to the subject*—this is too plain to need proof; (2) *Laws or ordinances of any kind* (especially of august bodies of high dignity and consequence), *which fail*

of execution, are much worse than none; they weaken the government; expose it to contempt. * * * A government which is but *half executed*, or whose *operations may all be stopped by a single vote*, is the most *dangerous of all institutions.* * * *

"Further, I propose that if the *execution of any act or order of the supreme authority shall be opposed by force in any of the States* (which God forbid!) it shall be lawful for Congress to send into such State *a sufficient force to suppress it.* On the whole, I take it that the very *existence and use of our union* effectually depends on the *full energy and final effect* of the laws made to support it; and therefore I *sacrifice all other considerations to this energy and effect;* and if our Union is not worth this purchase we must give it up—the *nature of the thing* does not admit any other alternative." In these ringing terms was announced the path-breaking invention of a supreme and self-executing federal government operating directly upon the citizen; an invention for which the world had been waiting for two thousand years; *an invention of which no trace or hint is to be found in the constitutions of any of the Teutonic Leagues, in the Articles of Confederation, or in the prior utterance of any other man.*

Having thus defined his fundamental concept of a federal government operating directly on the citizen, the great one boldly accepted the inevitable corollary that such a government must be strictly organized and equipped with machinery adequate to its ends—with the usual branches, executive, legislative, and judicial; with its army, its navy, its civil service, and all the usual apparatus of a government, all bearing directly upon every citizen of the Union without any reference to the government of the several States. No such federal government, ancient or modern, had ever existed. As Montesquieu was the first to point out, the division of state powers into executive, legislative, and judicial, originated in that single state in Britain we call England.*

**Spirit of Laws*, bk. xi, ch. 6.

From that single state the principle passed into the single States of the American Union.* Pelatiah Webster was the first to conceive of the application of the principle of the division of powers to *a federal state;* he was the first to propose that the *federal head* should be divided and then organized, as the particular ones are, into legislative, executive, and judicial. More than three years later Jefferson endorsed that idea by commending it to Madison.† Having thus made his second great invention, Webster proceeded to explain how the three departments, executive, legislative, and judicial, should be organized. His idea was that the executive power should be vested in a council of ministers to be grouped around a President elected by Congress. On that subject he said: "These *ministers* will of course have the best information, and most perfect knowledge, of the state of the Nation, as far as it relates to their several departments, and will of course be able to give the *best information* to Congress, in what manner any bill proposed will affect the public interest in their several departments, which will nearly comprehend the whole. The *Financier* manages the whole subject of the *revenues* and *expenditures; the Secretary of State* takes knowledge of the general *policy* and *internal* government; the *Minister of War* presides in the whole business of *war* and *defence;* and the *Minister of Foreign Affairs* regards the whole state of the Nation, as it stands related to, or connected with, all foreign powers. * * * I would further propose, that the aforesaid *great ministers of state shall compose a Council of State, to whose number Congress may add three others*, viz: one from *New England*, one from the *Middle States* and one from the *Southern States*, one of which to be *appointed President by Congress.*" To the organization of the legislative department Webster gave elaborate consideration. Just as no prior federal government had ever been divided into three departments, so

**Federalist*, xlvi.

†In the letter written from Paris, December 16, 1786, heretofore cited.

no prior federal legislature had ever been divided into two houses.

The one-chamber body represented by the Continental Congress was the type of every other federal assembly that had ever preceded it. As stated heretofore the path-breaker, looking to the English bicameral system as it had appeared in the several States, proposed "That the *Congress shall consist of two chambers*, an *upper* and *lower* house, or *senate* and *commons*, with the *concurrence of both necessary to every act;* and that every State send one or more delegates to each house: this will subject every act to *two* discussions before *two distinct* chambers of men equally *qualified* for the debate, equally *masters* of the subject, and of equal *authority* in the decision." Citizens of the United States, to whom such a division now seems a matter of course, should remember that when Webster proposed it, it was an unprecedented novelty in the history of the world, so far as *federal* legislatures are concerned. After an elaborate discussion of the qualifications of members of Congress, in which he sharply assailed the then existing rule forbidding their reelection, he proceeded to define a part of the original jurisdiction of the Supreme Court of the United States by saying "that the supreme authority should be vested with powers to *terminate* and *finally decide controversies arising between different States.*" He also said "To these I would add *judges of law* and *chancery.*" Thus the entire federal judicial system was distinctly outlined. Above all he was careful to define the reserved powers of the States. On that subject he said: "I propose further, that the powers of Congress, and all the other departments acting under them, shall all be *restricted to such matters only of general necessity and utility* to all the States, as cannot come *within the jurisdiction* of any particular State, or to which the *authority* of any particular State is not *competent:* so that each particular State shall enjoy all sovereignty and supreme authority to all intents and purposes, excepting only those high authorities and powers by

them delegated to Congress, for the purposes of the general union." In that passage we have the first draft, and a very complete one, of the Tenth Amendment.* So it is a matter of documentary evidence that every element that entered into the "wholly novel theory, which may be considered a great discovery in modern political science," and which differentiaties our second federal constitution of 1789 from every other that preceded it, was *the deliberate invention of Pelatiah Webster*, who announced to the world that theory, *as an entirety*, in his epoch-making paper of February 16, 1783. Prior to that date no federal government had ever existed (1) that operated directly on the individual citizen; (2) no federal government had ever been divided into three departments, executive, legislative, and judicial; (3) no federal legislature had ever been divided into an upper and lower house. There is no record, there is not even a claim that, prior to that date, any human being had ever propounded anyone of those principles in connection with a federal government. The great inventor was so conscious at the time of the magnitude of his undertaking that he exclaimed as he wrote:

"May *Almighty wisdom direct my pen* in this arduous discussion." In conclusion he said: "This vast subject lies with mighty weight on my mind, and I have bestowed on it my utmost attention, and here offer the public the best thoughts and sentiments I am master of. * * * I have not the vanity to imagine that my sentiments may be adopted; I shall have all the reward I wish or expect if my Dissertation shall throw any light on the great subject, shall excite an emulation of inquiry, and animate some abler genius to form a plan of greater perfection, less objectionable, and more useful." In his republication of 1791 he described perfectly the circumstances under which the great invention of February 16, 1783, was made, when he said that, "the public

*It provides that "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively or to the people."

ideas were not at all concentrated, much less arranged into any new system or form of government, which would obviate these evils. Under these circumstances I offered this Dissertation to the public." In that Dissertation, Pelatiah Webster presented, as a free gift to the great country that has neglected and forgotten him, the "new system or form of government" which passed, *through the four "plans"* offered in the Federal Convention of* 1787, into the existing Constitution of the United States. Certainly no more "wonderful work was ever struck off at a given time by the brain and purpose of man." The outcome of that work was a novel and unique creation operating directly on the people, and not upon the States as corporations. The State governments are not subject to the central government. The people are subject to both governments. The new creation is in no respect federal in its *operation*, although it is in some respects federal in its *organization*. No one of the three basic principles constituting the great invention was seriously questioned in the Convention. Its mighty and immortal task involved only their adaptation to very difficult and complex political conditions. The inventor of the plan stands to the members of the Convention as an architect stands to master builders.

As an evidence of the highly practical temper of Pelatiah Webster the fact should be mentioned in conclusion that, having been a successful merchant, his pet hobby seems to have been to create a Department of Commerce in close touch with Congress. He said: "I therefore humbly propose, if the merchants in the several States are disposed to send delegates from their body, to meet and attend the sitting of Congress, that they shall be permitted to form a *chamber*

*At a later time a grave controversy arose as to "*the singularly minute coincidences* between the draft of a Federal government communicated by Mr. Charles Pinckney of South Carolina, to Mr. Adams, Secretary of State," the Virginia plan, and the Constitution as finally adopted. Every explanation was given of "the singularly minute coincidences," except the plain and obvious one—*the four plans out of which the Constitution arose were taken from a common source.* For a statement of the controversy in question see Rives' Life and Times of Madison, vol. ii, pp. 353–357.

of commerce, and *their advice* to Congress be *demanded and admitted* concerning all bills before Congress, as far as the same may affect the *trade of the States*." In his criticisms made in 1791 of the work of the Federal Convention he said that its failure to accept that suggestion was a great mistake. The very recent creation of a Department of Commerce and Labor has at last effectuated his idea. Only through the vista of receding years can such an epoch-making mind be viewed in all its grandeur. What signifies a century of neglect passed in the midst of the "momentous consequences" his mighty work has wrought! His time is at hand; his fame is as safe and as certain as the immortality of thought and the unerring justice of the tribunal of history. His abiding faith in the justice of that tribunal he clearly expressed when he said: "But if any of these questions should in future time become objects of discussion, neither the *vast dignity of the Convention*, nor the *low unnoticed state of myself*, will be at all considered in the debates; the *merits* of the matter, and *the interests connected with or arising out of it* will alone dictate the decision."

The humanly impossible and miraculous theory which has heretofore serenely assumed that the greatest and most unique of all political inventions had no inventor, can not survive a method of historical investigations that undertakes to demonstrate that beneath every shell there is an animal, behind every document there is a man. The eminent French critic and historian Ch. V. Langlais has said: "History is studied from documents. Documents are the traces which have been left by the thoughts and actions of men of former times. There is no substitute for documents: no documents, no history." Strange indeed it is that the most important document connected with our Constitutional history should now be presented to the jurists and statesmen of the United States as if it were a papyrus from Egypt or Herculaneum.

Humbly presented by

HANNIS TAYLOR.

UNIVERSITY OF CALIFORNIA

III.

THE EPOCH-MAKING DOCUMENT OF FEBRUARY 16, 1783, IN WHICH IS EMBODIED THE FIRST DRAFT OF THE EXISTING CONSTITUTION OF THE UNITED STATES:

A DISSERTATION ON THE POLITICAL UNION AND CONSTITUTION OF THE THIRTEEN UNITED STATES OF *NORTH AMERICA*,

which is necessary to their Preservation and Happiness; humbly offered to the Public.

(*First published in Philadelphia, 1783.*)

I. The supreme authority of any State must have power enough to effect the ends of its appointment, otherwise these ends cannot be answered, and effectually secured; at best they are precarious.—But at the same time,

II. The supreme authority ought to be so limited and checked, if possible, as to prevent the abuse of power, or the exercise of powers that are not necessary to the ends of its appointment, but hurtful and oppressive to the subject; but to limit a supreme authority so far as to diminish its dignity, or lessen its power of doing good, would be to destroy or at least to corrupt it, and render it ineffectual to its ends.

III. A number of sovereign States uniting into one Commonwealth, and appointing a supreme power to manage the affairs of the Union, do necessarily and unavoidably part with and transfer over to such supreme power, so much of their own sovereignty as is necessary to render the ends of the union effectual, otherwise their confederation will be an union without bands of union, like a cask without hoops, that may and probably will fall to pieces, as soon as it is put to any exercise which requires strength.

In like manner, every member of civil society parts with many of his natural rights, that he may enjoy the rest in greater security under the protection of society.

The Union of the Thirteen States of America is of mighty consequence to the security, sovereignty, and even liberty of each of them, and of all the individuals who compose them; united under a natural, well adjusted, and effectual Constitution, they are a strong, rich, growing power, with great resources and means of defence, which no foreign power will easily attempt to invade or insult; they may easily command respect.

As their exports are mostly either raw materials or provisions, and their imports mostly finished goods, their trade becomes a capital object with every manufacturing nation of Europe, and all the southern colonies of America; their friendship and trade will of course be courted, and each power in amity with them will contribute to their security.

Their union is of great moment in another respect; they thereby form a superintending power among themselves, that can moderate and terminate disputes that may arise between different States, restrain intestine violence, and prevent any recourse to the dreadful decision of the sword.

I do not mean here to go into a detail of all the advantages of our union; they offer themselves on every view, and are important enough to engage every honest, prudent mind, to secure and establish that union by every possible method, that we may enjoy the full benefit of it, and be rendered happy and safe under the protection it affords.

This union, however important, cannot be supported without a Constitution founded on principles of natural truth, fitness, and utility. If there is one article wrong in such Constitution, it will discover itself in practice, by its baleful operation, and destroy or at least injure the union.

Many nations have been ruined by the errors of their political constitutions. Such errors first introduce wrongs and injuries, which soon breed discontents, which gradually work up into mortal hatred and resentments; hence inveterate parties are formed, which of course make the whole community a house divided against itself, which soon falls either a prey to some enemies without, who watch to devour them, or else crumble into their original constituent parts, and lose all respectability, strength, and security.

It is as physically impossible to secure to civil society, good cement of union, duration, and security without a Constitution founded on principles of natural fitness and right, as to raise timbers into a strong, compact building, which have not been framed upon true geometric principles; for if you cut one beam a foot too long or too short, not all the authority and all the force of all the carpenters can ever get it into its place, and make it fit with proper symmetry there.

As the fate then of all governments depends much upon their political constitutions, they become an object of mighty moment to the happiness and well-being of society; and as the framing of such a Constitution requires great knowledge of the rights of men and societies, as well as of the interests, circumstances, and even prejudices of the several parts of the community or commonwealth, for which it is intended; it becomes a very complex subject, and of course requires great steadiness and comprehension of thought, as well as great knowledge of men and things, to do it properly. I shall, however, attempt it with my best abilities, and hope from the candor of the public to escape censure, if I cannot merit praise.

I begin with my first and great principle, viz: That the Constitution must vest powers in every department sufficient to secure and make effectual the ends of it. The supreme authority must have the power of making war and peace—of appointing armies and navies—of appointing officers both civil and military—of making contracts—of emitting, coining, and borrowing money—of regulating trade—of making treaties with foreign powers—of establishing post-offices—and in short of doing everything which the well-being of the Commonwealth may require, and which is not compatible to any particular State, all of which require money, and cannot possibly be made effectual without it.

They must therefore of necessity be vested with power of taxation. I know this is a most important and weighty truth, a dreadful engine of oppression, tyranny, and injury, when ill used; yet, from the necessity of the case, it must be admitted.

For to give a supreme authority a power of making contracts, without any power of payment—of appointing officers civil and military, without money to pay them—a power to build ships, without any money to do it with—a power of emitting money, without any power to redeem it—or of borrowing money, without any power to make payment, etc., etc.—such solecisms in government are so nugatory and absurd, that I really think to offer further argument on the subject, would be to insult the understanding of my readers.

To make all these payments dependent on the votes of thirteen popular assemblies, who will undertake to judge of the propriety of every contract and every occasion of money, and grant or withhold supplies, according to their opinion, whilst at the same time the operations of the whole may be stopped by the vote of a single one of them, is absurd; for this renders all supplies so precarious and the public credit so extremely uncertain, as must in its nature render all efforts in war, and all regular administration in peace, utterly impracticable, as well as most pointedly ridiculous. Is there a man to be found who would lend money, or render personal services, or make contracts on such precarious security? Of this we have a proof of fact, the strongest of all proofs, a fatal experience, the surest tho' severest of all demonstration, which renders all other proof or argument on this subject quite unnecessary.

The present broken state of our finances—public debts and bankruptcies—enormous and ridiculous depreciation of public securities—with the total annihilation of our public credit—prove beyond all contradiction the vanity of all recourse to the federal Assemblies of the States. The recent instance of the duty of 5 per cent on imported goods, struck dead, and the bankruptcies which ensued on the single vote of Rhode Island, affords another proof of what it is certain may be done again in like circumstances.

I have another reason why a power of taxation or of raising money, ought to be vested in the supreme authority of our commonwealth, viz, the monies necessary for the public

ought to be raised by a duty imposed on imported goods, not a bare 5 per cent or any other per cent on all imported goods indiscriminately, but a duty much heavier on all articles of luxury or mere ornament, and which are consumed principally by the rich or prodigal part of the community, such as silks of all sorts, muslins, cambricks, lawns, superfine cloths, spirits, wines, etc., etc.

Such an impost would ease the husbandman, the mechanic, and the poor; would have all the practical effects of a sumptuary law; would mend the economy, and increase the industry, of the community; would be collected without the shocking circumstances of collectors and their warrants; and make the quantity of tax paid, always depend on the choice of the person who pays it.

This tax can be laid by the supreme authority much more conveniently than by the particular Assemblies, and would in no case be subject to their repeals or modifications; and of course the public credit would never be dependent on, or liable to bankruptcy by the humors of any particular Assembly. In an Essay on Finance, which I design soon to offer to the public, this subject will be treated more fully. (See my Sixth Essay on Free Trade and Finance, p. 229.)

The delegates which are to form that august body, which are to hold and exercise the supreme authority, ought to be appointed by the States in any manner they please; in which they should not be limited by any restrictions; their own dignity and the weight they will hold in the great public councils, will always depend on the abilities of the persons they appoint to represent them there; and if they are wise enough to choose men of sufficient abilities, and respectable characters, men of sound sense, extensive knowledge, gravity, and integrity, they will reap the honor and advantage of such wisdom.

But if they are fools enough to appoint men of trifling or vile characters, of mean abilities, faulty morals, or despicable ignorance, they must reap the fruits of such folly, and content themselves to have no weight, dignity, or esteem in the public councils; and, what is more to be lamented by the Commonwealth, to do no good there.

I have no objection to the States electing and recalling their delegates as often as they please, but think it hard and very injurious both to them and the Commonwealth that they

should be obliged to discontinue them after three years' service, if they find them on that trial to be men of sufficient integrity and abilities; a man of that experience is certainly much more qualified to serve in the place, than a new member of equal good character can be; experience makes perfect in every kind of business—old, experienced statesmen, of tried and approved integrity and abilities, are a great blessing to a State—they acquire great authority and esteem as well as wisdom, and very much contribute to keep the system of government in good and salutary order; and this furnishes the strongest reason why they should be continued in the service, on Plato's great maxim, that "the man best qualified to serve, ought to be appointed."

I am sorry to see a contrary maxim adopted in our American counsels; to make the highest reason that can be given for continuing a man in the public administration, assigned as a constitutional and absolute reason for turning him out, seems to me to be a solecism of a piece with many other reforms, by which we set out to surprise the world with our wisdom.

If we should adopt this maxim in the common affairs of life, it would be found inconvenient, *e. g.*, if we should make it a part of our Constitution, that a man who has served a three years' apprenticeship to the trade of a tailor or shoemaker, should be obliged to discontinue that business for the three successive years, I am of opinion the country would soon be cleared of good shoemakers and tailors.—Men are no more born statesmen than shoemakers or tailors—Experience is equally necessary to perfection in both.

It seems to me that a man's inducement to qualify himself for a public employment, and make himself master of it, must be much discouraged by this consideration, that let him take whatever pains to qualify himself in the best manner, he must be shortly turned out, and of course it would be of more consequence to him, to turn his attention to some other business, which he might adopt when his present appointment should expire; and by this means the Commonwealth is in danger of losing the zeal, industry, and shining abilities, as well as services, of their most accomplished and valuable men.

I hear that the State of Georgia has improved on this blessed principle, and limited the continuance of their gov-

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ernors to one year; the consequence is, they have already the ghosts of departed governors stalking about in every part of their State, and growing more plenty every year; and as the price of everything is reduced by its plenty, I can suppose governors will soon be very low there.

This doctrine of rotation was first proposed by some sprightly geniuses of brilliant politics, with this cogent reason; that by introducing a rotation in the public offices, we should have a great number of men trained up to public service; but it appears to me that it will be more likely to produce many jacks at all trades, but good at none.

I think that frequent elections are a sufficient security against the continuance of men in public office whose conduct is not approved, and there can be no reason for excluding those whose conduct is approved, and who are allowed to be better qualified than any men who can be found to supply their places.

Another great object of government, is the apportionment of burdens and benefits; for if a greater quota of burden, or a less quota of benefits than is just and right, be allotted to any State, this ill apportionment will be an everlasting source of uneasiness and discontent. In the first case, the overburdened State will complain; in the last case, all the States, whose quota of benefit is under-rated, will be uneasy; and this is a case of such delicacy, that it cannot be safely trusted to the arbitrary opinion or judgment of any body of men however august.

Some natural principles of confessed equity, and which can be reduced to a certainty, ought, if possible, to be found and adopted; for it is of the highest moment to the Commonwealth, to obviate, and, if possible, wholly to take away, such a fruitful and common source of infinite disputes, as that of apportionment of quotas has ever proved in all States of the earth.

The value of lands may be a good rule; but the ascertainment of that value is impracticable; no assessment can be made which will not be liable to exception and debate—to adopt a good rule in anything which is impracticable, is absurd; for it is physically impossible that anything should be good for practise, which cannot be practised at all; but if the value of lands was capable of certain assessment, yet to adopt that value as a rule of apportionment of quotas, and

at the same time to except from valuation large tracts of sundry States of immense value, which have all been defended by the joint arms of the whole Empire, and for the defence of which no additional quota of supply is to be demanded of those States, to whom such lands are secured by such joint efforts of the States, is in its nature unreasonable, and will open a door for great complaint.

It is plain without argument, that such States ought either to make grants to the Commonwealth of such tracts of defended territory, or sell as much of them as will pay their proper quota of defence, and pay such sums into the public treasury; and this ought to be done, let what rule of quota forever be adopted with respect to the cultivated part of the United States; for no proposition of natural right and justice can be plainer than this, that every part of valuable property which is defended, ought to contribute its quota of supply for that defence.

If then the value of cultivated lands is found to be an impracticable rule of apportionment of quotas, we have to seek for some other, equally just and less exceptionable.

It appears to me, that the number of living souls or human persons of whatever age, sex, or condition, will afford us a rule or measure of apportionment which will forever increase and decrease with the real wealth of the States, and will of course be a perpetual rule, not capable of corruption by any circumstances of future time; which is of vast consideration in forming a constitution which is designed for perpetual duration, and which will in its nature be as just as to the inhabited parts of each State, as that of the value of lands, or any other that has or can be mentioned.

Land takes its value not merely from the goodness of its soil, but from innumerable other relative advantages among which the population of the country may be considered as principal; as lands in a full settled country will always (cæteris paribus) bring more than lands in thin settlements. On this principle, when the inhabitants of Russia, Poland, etc., sell real estates, they do not value them as we do, by the number of acres, but by the number of people who live on them.

Where any piece of land has many advantages many people will crowd there to obtain them; which will create many competitors for the purchase of it; which will of course

raise the price. Where there are fewer advantages, there will be fewer competitors, and of course a less price; and these two things will forever be proportionate to each other, and of course the one will always be a sure index of the other.

The only considerable objection I have ever heard to this, is, that the quality of inhabitants differs in the different States, and it is not reasonable that the black slaves in the southern States should be estimated on a par with the white freemen in the northern States To discuss this question fairly, I think it will be just to estimate the neat value of the labor of both; and if it shall appear that the labor of the black person produces as much neat wealth to the southern State, as the labor of the white person does to the northern State, I think it will follow plainly that they are equally useful inhabitants in point of wealth; and therefore in the case before us, should be estimated alike.

And if the amazing profits which the southern planters boast of receiving from the labor of their slaves on their plantations, are real, the southern people have greatly the advantage in this kind of estimation, and as this objection comes principally from the southward, I should suppose that the gentlemen from that part would blush to urge it any farther.

That the supreme authority should be vested with powers to terminate and finally decide controversies arising between different States, I take it, will be universally admitted, but I humbly apprehend that an appeal from the first instance of trial ought to be admitted in causes of great moment, on the same reasons that such appeals are admitted in all the States of Europe. It is well known to all men versed in courts, that the first hearing of a cause rather gives an opening to that evidence and reason which ought to decide it, than such a full examination and thorough discussion, as should always precede a final judgment, in causes of national consequence. A detail of reasons might be added, which I deem it unnecessary to enlarge on here.

The supreme authority ought to have a power of peace and war, and forming treaties and alliances with all foreign powers; which implies a necessity of their also having sufficient powers to enforce the obedience of all subjects of the United States to such treaties and alliances; with full

powers to unite the force of the States; and direct its operations in war; and to punish all transgressors in all these respects; otherwise, by the imprudence of a few, the whole Commonwealth may be embroiled with foreign powers, and the operations of war may be rendered useless, or fail much of their due effect.

All these I conceive will be easily granted, especially the latter, as the power of Congress to appoint and direct the army and navy in war, with all departments thereto belonging, and punishing delinquents in them all, is already admitted into practise in the course of the present unhappy war, in which we have been long engaged.

II. But now the great and most difficult part of this weighty subject remains to be considered, viz, how these supreme powers are to be constituted in such manner that they may be able to exercise with full force and effect, the vast authorities committed to them, for the good and well-being of the United States, and yet be so checked and restrained from exercising them to the injury and ruin of the States, that we may with safety trust them with a commission of such vast magnitude—and may Almighty wisdom direct my pen in this arduous discussion.

1. The men who compose this important council, must be delegated from all the States; and, of course, the hope of approbation and continuance of honors, will naturally stimulate them to act right, and to please; the dread of censure and disgrace will naturally operate as a check to restrain them from improper behavior: but however natural and forcible these motives may be, we find by sad experience, they are not always strong enough to produce the effects we expect and wish from them.

It is to be wished that none might be appointed that were not fit and adequate to this weighty business; but a little knowledge of human nature, and a little acquaintance with the political history of mankind, will soon teach us that this is not to be expected.

The representatives appointed by popular elections are commonly not only the legal, but real, substantial representatives of their electors, *i. e.*, there will commonly be about the same proportion of grave, sound, well-qualified men, trifling, desultory men—wild or knavish schemers—and dull, ignorant fools, in the delegated assembly, as in the body of electors.

I know of no way to help this; such delegates must be admitted, as the States are pleased to send; and all that can be done is, when they get together, to make the best of them.

We will suppose then they are all met in Congress, clothed with that vast authority which is necessary to the well-being, and even existence, of the union, that they should be vested with; how shall we empower them to do all necessary and effectual good, and restrain them from doing hurt? To do this properly, I think we must recur to those natural motives of action, those feelings and apprehensions, which usually occur to the mind at the very time of action; for distant consequences, however weighty, are often too much disregarded.

Truth loves light, and is vindicated by it. Wrong shrouds itself in darkness, and is supported by delusion. An honest well-qualified man loves light, can bear close examination, and critical inquiry, and is best pleased when he is most thoroughly understood: a man of corrupt design, or a fool of no design, hates close examination and critical inquiry; the knavery of the one, and the ignorance of the other, are discovered by it, and they both usually grow uneasy, before the investigation is half done. I do not believe that there is a more natural truth in the world, than that divine one of our Saviour, "he that doth truth, cometh to the light." I would therefore recommend that mode of deliberation, which will naturally bring on the most thorough and critical discussion of the subject, previous to passing any act; and for that purpose humbly propose,

2. That the Congress shall consist of two chambers, an upper and a lower house, or senate and commons, with the concurrence of both necessary to every act; and that every State send one or more delegates to each house: this will subject every act to two discussions before two distinct chambers of men equally qualified for the debate, equally masters of the subject, and of equal authority in the decision.

These two houses will be governed by the same natural motives and interests, viz, the good of the Commonwealth, and the approbation of the people. Whilst at the same time, the emulation naturally arising between them, will induce a very critical and sharp-sighted inspection into the motions of each other. Their different opinions will bring on conferences between the two houses, in which the whole subject

will be exhausted in arguments pro and con, and shame will be the portion of obstinate convicted error.

Under these circumstances, a man of ignorance or evil design will be afraid to impose on the credulity, inattention, or confidence of his house, by introducing any corrupt or undigested proposition, which he knows he must be called on to defend against the severe scrutiny and poignant objections of the other house. I do not believe the many hurtful and foolish legislative acts which first or last have injured all the States on earth, have originated so much in corruption as indolence, ignorance, and a want of a full comprehension of the subject, which a full, prying and emulous discussion would tend in a great measure to remove: this naturally rouses the lazy and idle, who hate the pain of close thinking; animates the ambitious to excel in policy and argument; and excites the whole to support the dignity of their house, and vindicate their own propositions.

I am not of opinion that bodies of elective men, which usually compose Parliaments, Diets, Assemblies, Congresses, etc., are commonly dishonest: but I believe it rarely happens that there are not designing men among them; and I think it would be much more difficult for them to unite their partisans in two houses, and corrupt or deceive them both, than to carry on their designs where there is but one unalarmed, unapprehensive house to be managed; and as there is no hope of making these bad men good, the best policy is to embarrass them, and make their work as difficult as possible.

In these assemblies are frequently to be found sanguine men, upright enough indeed, but of strong, wild projection, whose brains are always teeming with Utopian, chimerical plans, and political whims, very destructive to society. I hardly know a greater evil than to have the supreme council of a Nation played off on such men's wires; such baseless visions at best end in darkness, and the dance, though easy and merry enough at first, rarely fails to plunge the credulous, simple followers into sloughs and bogs at last.

Nothing can tend more effectually to obviate these evils, and to mortify and cure such maggoty brains, than to see the absurdity of their projects exposed by the several arguments and keen satire which a full, emulous, and spirited discussion of the subject will naturally produce: we have had enough of these geniuses in the short course of our

politics, both in our national and provincial councils, and have felt enough of their evil effects, to induce us to wish for any good method to keep ourselves clear of them in future.

The consultations and decisions of national councils are so very important, that the fate of millions depends on them, therefore no man ought to speak in such assemblies, without considering that the fate of millions hangs on his tongue, —and of course a man can have no right in such august councils to utter undigested sentiments, or indulge himself in sudden, unexamined flights of thought; his most tried and improved abilities are due to the State, who have trusted him with their most important interests.

A man must therefore be most inexcusable, who is either absent during such debates, or sleeps, or whispers, or catches flies during the argument, and just rouses when the vote is called, to give his yea or nay, to the weal or woe of a nation. Therefore it is manifestly proper, that every natural motive that can operate on his understanding, or his passions, to engage his attention and utmost efforts, should be put in practise, and that his present feelings should be raised by every motive of honor and shame, to stimulate him to every practicable degree of diligence and exertion, to be as far as possible useful in the great discussion.

I appeal to the feelings of every reader, if he would not (were he in either house) be much more strongly and naturally induced to exert his utmost abilities and attention to any question which was to pass through the ordeal of a spirited discussion of another house, than he would do, if the absolute decision depended on his own house, without any further inquiry or challenge on the subject.

As Congress will ever be composed of men delegated by the several States, it may well be supposed that they have the confidence of their several States, and understand well the policy and present condition of them; it may also be supposed that they come with strong local attachments, and habits of thinking limited to the interests of their particular States; it may therefore be supposed they will need much information, in order to their gaining that enlargement of ideas, and great comprehension of thought, which will be necessary to enable them to think properly on that large scale, which takes into view the interests of all the States.

The greatest care and wisdom is therefore requisite to give them the best and surest information, and of that kind that may be the most safely relied on, to prevent their being deluded or prejudiced by partial representations, made by interested men who have particular views.

This information may perhaps be best made by the great ministers of state, who ought to be men of the greatest abilities and integrity; their business is confined to their several departments, and their attention engaged strongly and constantly to all the several parts of the same; the whole arrangement, method, and order of which, are formed, superintended, and managed in their offices, and all information relative to their department centre there.

These ministers will of course have the best information, and most perfect knowledge, of the state of the Nation, as far as it relates to their several departments, and will of course be able to give the best information to Congress, in what manner any bill proposed will affect the public interest in their several departments, which will nearly comprehend the whole.

The Financiers manages the whole subject of revenues and expenditures—the Secretary of State takes knowledge of the general policy and internal government—the minister of war presides in the whole business of war and defense—and the minister of foreign affairs regards the whole state of the nation, as it stands related to, or connected with, all foreign powers.

I mention a Secretary of State, because all other nations have one, and I suppose we shall need one as much as they, and the multiplicity of affairs which naturally fall into his office will grow so fast, that I imagine we shall soon be under the necessity of appointing one.

To these I would add Judges of Law, and chancery; but I fear they will not be very soon appointed—the one supposes the existence of law, the other of equity—and when we shall be altogether convinced of the absolute necessity of the real and effectual existence of both of these, we shall probably appoint proper heads to preside in those departments. I would therefore propose,

3. That when any bill shall pass the second reading in the house in which it originates, and before it shall be finally enacted, copies of it shall be sent to each of the said ministers of state, in being at the time, who shall give said house in

writing, the fullest information in their power, and their most explicit sentiments of the operation of the said bill on the public interest, as far as relates to their respective departments, which shall be received and read in said house, and entered on their minutes, before they finally pass the bill; and when they send the bill for concurrence to the other house, they shall send therewith the said informations of the said ministers of state, which shall likewise be read in that house before their concurrence is finally passed.

I do not mean to give these great ministers of state a negative on Congress, but I mean to oblige Congress to receive their advices before they pass their bills, and that every act shall be void that is not passed with these forms; and I further propose, that either house of Congress may, if they please, admit the said ministers to be present and assist in the debates of the house, but without any right of vote in the decision.

It appears to me that if every act shall pass so many different corps of discussion before it is completed, where each of them stake their characters on the advice or vote they give, there will be all the light thrown on the case, which the nature and circumstances of it can admit, and any corrupt man will find it extremely difficult to foist in any erroneous clause whatever; and every ignorant or lazy man will find the strongest inducements to make himself master of the subject, that he may appear with some toler able degree of character in it; and the whole will find themselves in a manner compelled, diligently and sincerely to seek for the real state of the facts, and the natural fitness and truths arising from them, *i. e.*, the whole natural principles on which the subjects depend, and which alone can endure every test, to the end that they may have not only the inward satisfaction of acting properly and usefully for the States, but also the credit and character which is or ought ever to be annexed to such a conduct.

This will give the great laws of Congress the highest probability, presumption, and means of right, fitness, and truth, that any laws whatever can have at their first enaction and will of course afford the highest reason for the confidence and acquiescence of the States, and all their subjects, in them; and being grounded in truth and natural fitness, their operations will be easy, salutary, and satisfactory.

If experience shall discover error in any law (for practise will certainly discover such errors, if there be any) the legislature will always be able to correct them, by such repeals, amendments, or new laws as shall be found necessary; but as it is much easier to prevent mischiefs than to remedy them, all possible caution, prudence, and attention should be sued, to make the laws right at first.

4. There is another body of men among us, whose business of life, and whose full and extensive intelligence, foreign and domestic, naturally make them more perfectly acquainted with the sources of our wealth, and whose particular interests are more intimately and necessarily connected with the general prosperity of the country, than any other order of men in the States. I mean the Merchants; and I could wish that Congress might have the benefit of that extensive and important information, which this body of men are very capable of laying before them.

Trade is of such essential importance to our interests, and so intimately connected with all our staples, great and small, that no sources of our wealth can flourish, and operate to the general benefit of the community, without it. Our husbandry, that great staple of our country, can never exceed our home consumption without this—it is plain at first sight, that the farmer will not toil and sweat through the year to raise great plenty of the produce of the soil, if there is no market for his produce, when he has it ready for sale, *i. e.*, if there are no merchants to buy it.

In like manner, the manufacturer will not lay out his business on any large scale, if there is no merchant to buy his fabrics when he has finished them; a vent is of the most essential importance to every manufacturing country—the merchants, therefore, become the natural negotiators of the wealth of the country, who take off the abundance, and supply the wants, of the inhabitants;—and as this negotiation is the business of their lives, and the source of their own wealth, they of course become better acquainted with both our abundance and wants, and are more interested in finding and improving the best vent for the one, and supply of the other, than any other men among us, and they have a natural interest in making both the purchase and supply as convenient to their customers as possible, that they may secure their custom, and thereby increase their own business.

It follows then, that the merchants are not only qualified to give the fullest and most important information to our supreme legislature, concerning the state of our trade—the abundance and wants—the wealth and poverty, of our people, *i. e.*, their most important interests, but are also the most likely to do it fairly and truly, and to forward with their influence, every measure which will operate to the convenience and benefit of our commerce, and oppose with their whole weight and superior knowledge of the subject, any wild schemes, which an ignorant or arbitrary legislature may attempt to introduce, to the hurt and embarrasment of our intercourse both with one another, and with foreigners.

The States of Venice and Holland have ever been governed by merchants, or at least their policy has ever been under the great influence of that sort of men. No States have been better served, as appears by their great success, the ease and happiness of their citizens, as well as the strength and riches of their Commonwealths: the one is the oldest, and the other the richest, State in the world of equal number of people—the one has maintained sundry wars with the Grand Turk—the other has withstood the power of Spain and France; and the capitals of both have long been the principal marts of the several parts of Europe in which they are situated; and the banks of both are the best supported, and in the best credit, of any banks in Europe, though their countries or territories are very small, and their inhabitants but a handful, when compared with the great States in their neighbourhood.

Merchants must, from the nature of their business, certainly understand the interests and resources of their country, the best of any men in it; and I know not of any one reason why they should be deemed less upright or patriotic, than any other rank of citizen whatever.

I therefore humbly propose, if the merchants in the several States are disposed to send delegates from their body, to meet and attend the sitting of Congress, that they shall be permitted to form a chamber of commerce, and their advice to Congress be demanded and admitted concerning all bills before Congress, as far as the same may affect the trade of the States.

I have no idea that the continent is made for Congress: I take them to be no more than the upper servants of the great

political body, who are to find out things by study and inquiry as other people do; and therefore I think it necessary to place them under the best possible advantages for information, and to require them to improve all those advantages, to qualify themselves in the best manner possible, for the wise and useful discharge of the vast trust and mighty authority reposed in them; and as I conceive the advice of the merchants to be one of the greatest sources of mercantile information, which is anywhere placed within their reach, it ought by no means to be neglected, but so husbanded and improved, that the greatest possible advantages may be derived from it.

Besides this, I have another reason why the merchants ought to be consulted; I take it to be very plain that the husbandry and manufactures of the country must be ruined, if the present rate of taxes is continued on them much longer, and of course a very great part of our revenue must arise from imposts on merchandise, which will fall directly within the merchants' sphere of business, and of course their concurrence and advice will be of the utmost consequence, not only to direct the properest mode of levying those duties, but also to get them carried into quiet and peaceable execution.

No men are more conversant with the citizens, or more intimately connected with their interests, than the merchants, and therefore their weight and influence will have a mighty effect on the minds of the people. I do not recollect an instance, in which the Court of London ever rejected the remonstrances and advices of the merchants, and did not suffer severely for their pride. We have some striking instances of this in the disregarded advices and remonstrances of very many English merchants against the American war, and their fears and apprehensions we see verified, almost like prophecies by the event.

I know not why I should continue this argument any longer or indeed why I should have urged it so long, in as much as I cannot conceive that Congress or anybody else will deem it below the dignity of the supreme power to consult so important an order of men, in matters of the first consequence, which fall immediately under their notice, and in which their experience, and of course their knowledge and advice, are preferable to those of any other order of men.

Besides the benefits which Congress may receive from this institution, a chamber of commerce, composed of members from all trading towns in the States, if properly instituted and conducted, will produce very many, I might almost say, innumerable advantages of singular utility to all the States—it will give dignity, uniformity, and safety to our trade—establish the credit of the bank—secure the confidence of foreign merchants—prove in very many instances a fruitful source of improvement of our staples and mutual intercourse—correct many abuses—pacify discontents—unite us in our interests, and thereby cement the general union of the whole Commonwealth—will relieve Congress from the pain and trouble of deciding many intricate questions of trade which they do not understand, by referring them over to this chamber, where they will be discussed by an order of men, the most competent to the business of any that can be found, and most likely to give a decision that shall be just, useful, and satisfactory.

It may be objected to all this, that the less complex and the more simple every constitution is, the nearer it comes to perfection: this argument would be very good, and afford a very forcible conclusion, if the government of men was like that of the Almighty, always founded on wisdom, knowledge and truth; but in the present imperfect state of human nature, where the best of men know but in part, and must recur to advice and information for the rest, it certainly becomes necessary to form a constitution on such principles, as will secure that information and advice in the best and surest manner possible.

It may be further objected that the forms herein proposed will embarrass the business of Congress, and make it at best slow and dilatory. As far as this form will prevent the hurrying a bill through the house without due examination, the objection itself becomes an advantage—at most these checks on the supreme authority can have no further effect than to delay or destroy a good bill, but cannot pass a bad one; and I think it much better in the main, to lose a good bill than to suffer a bad one to pass into a law.—Besides it is not to be supposed that clear, plain cases will meet with embarrassment, and it is most safe that untried, doubtful, difficult matters should pass through the gravest and fullest discussion, before the sanction of the law is given to them.

But what is to be done if the two houses grow jealous and ill-natured, and after all their information and advice, grow out of humor and insincere, and no concurrence can be obtained? I answer, sit still and do nothing until they get into a better humor: I think this is much better than to pass laws in such a temper and spirit, as the objection supposes.

It is however an ill compliment to so many grave personages, to suppose them capable of throwing aside their reason, and giving themselves up like children to the control of their passions; or, if this should happen for a moment, that it should continue any length of time, is hardly to be presumed of a body of men placed in such high stations of dignity and importance, with the eyes of all the world upon them—but if they should, after all, be capable of this, I think it madness to set them to making laws, during such fits—it is best, when they are in no condition to do good, to keep them from doing hurt—and if they do not grow wiser in reasonable time, I know of nothing better, than to be ashamed of our old appointments, and make new ones.

But what if the country is invaded, or some other exigency happens, so pressing that the safety of the State requires an immediate resolution? I answer, what would you do if such a case should happen, where there was but one house, unchecked, but equally divided, so that a legal vote could not be obtained. The matter is certainly equally difficult and embarrassed in both cases: but in the case proposed I know of no better way than that which the Romans adopted on the like occasion, viz., that both houses meet in one chamber, and choose a dictator, who should have and exercise the whole power of both houses, till such time as they should be able to concur in displacing him, and that the whole power of the two houses should be suspended in the meantime.

5. I further propose, that no grant of money whatever shall be made, without an appropriation, and that rigid penalties (no matter how great, in my opinion the halter would be mild enough) shall be inflicted on any person, however august his station, who should give order, or vote for the payment, or actually pay one shilling of such money to any other purpose than that of its appropriation, and that no order whatever of any superior in office shall justify such payment, but every order shall express what funds it is drawn upon, and what appropriation it is to be charged to, or the order shall not be paid.

This kind of embezzlement is of so fatal a nature, that no measures or bounds are to be observed in curing it; when ministers will set forth the most specious and necessary occasions for money, and induce the people to pay it in full tale; and when they have gotten possession of it, to neglect the great objects for which it was given, and pay it, sometimes squander it away, for different purposes, oftentimes for useless, yea, hurtful ones, yea, often even to bribe and corrupt the very officers of government, to betray their trust, and contaminate the State, even in its public offices—to force people to buy their own destruction, and pay for it with their hard labor, the very sweat of their brow, is a crime of so high a nature, that I know not any gibbet too cruel for such offenders.

6. I would further propose, that the aforesaid great ministers of state shall compose a Council of State, to whose number Congress may add three others, viz, one from New England, one from the middle States, and one from the southern States, one of which to be appointed President by Congress; to all of whom shall be committed the supreme executive authority of the States (all and singular of them ever accountable to Congress) who shall superintend all the executive departments, and appoint all executive officers, who shall ever be accountable to, and removable for just cause by, them or Congress, *i. e.*, either of them.

7. I propose further, that the powers of Congress, and all the other departments, acting under them, shall all be restricted to such matters only of general necessity and utility to all the States, as cannot come within the jurisdiction of any particular State, or to which the authority of any particular State is not competent: so that each particular State shall enjoy all sovereignty and supreme authority to all intents and purposes, excepting only those high authorities and powers by them delegated to Congress, for the purposes of the general union.

There remains one very important article still to be discussed, viz, what methods the Constitution shall point out, to enforce the acts and requisitions of Congress through the several States; and how the States which refuse or delay obedience to such acts and requisitions, shall be treated: this, I know, is a particular of the greatest delicacy, as well as of the utmost importance; and therefore, I think, ought to be

decidedly settled by the Constitution, in our coolest hours, whilst no passions or prejudices exist, which may be excited by the great interests or strong circumstances of any particular case which may happen.

I know that supreme authorities are liable to err, as well as subordinate ones. I know that courts may be in the wrong, as well as the people; such is the imperfect state of human nature in all ranks and degrees of men; but we must take human nature as it is; it cannot be mended; and we are compelled both by wisdom and necessity, to adopt such methods as promise the greatest attainable good, though perhaps not the greatest possible, and such as are liable to the fewest inconveniences, though not altogether free of them.

This is a question of such magnitude, that I think it necessary to premise the great natural principles on which its decision ought to depend—In the present state of human nature, all human life is a life of chances; it is impossible to make any interest so certain, but there will be a chance against it; and we are in all cases obliged to adopt a chance against us, in order to bring ourselves within the benefit of a greater chance in our favor; and that calculation of chances which is grounded on the great natural principles of truth and fitness, is of all others the most likely to come out right.

1. No laws of any State whatever, which do not carry in them a force which extends to their effectual and final execution, can afford a certain or sufficient security to the subject: this is too plain to need any proof.

2. Laws or ordinances of any kind (especially of august bodies of high dignity and consequence), which fail of execution are much worse than none; they weaken the government; expose it to contempt; destroy the confidence of all men, natives and foreigners, in it; and expose both aggregate bodies and individuals, who have placed confidence in it, to many ruinous disappointments, which they would have escaped, had no law or ordinance been made: therefore,

3. To appoint a Congress with powers to do all acts necessary for the support and uses of the union; and at the same time to leave all the States at liberty to obey them or not with impunity, is, in every view, the grossest absurdity, worse than a state of nature without any supreme authority at all, and at best a ridiculous effort of childish nonsense: and of course,

4. Every State in the Union is under the highest obligation to obey the supreme authority of the whole, and in the highest degree amenable to it, and subject to the highest censure for disobedience—Yet all this notwithstanding, I think the soul that sins shall die, *i. e.*, the censure of the great supreme power, ought to be so directed, if possible, as to light on those persons, who have betrayed their country, and exposed it to dissolution, by opposing and rejecting that supreme authority, which is the band of our union, and from whence proceeds the principal strength and energy of our government.

I therefore propose, that every person whatever, whether in public or private character, who shall, by public vote or overt act, disobey the supreme authority, shall be amenable to Congress, shall be summoned and compelled to appear before Congress, and, on due conviction, suffer such fine, imprisonment, or other punishment, as the supreme authority shall judge requisite.

It may be objected here, that this will make a Member of Assembly accountable to Congress for his vote in Assembly; I answer, it does so in this only case, viz., when that vote is to disobey the supreme authority; no Member of Assembly can have right to give such a vote, and therefore ought to be punished for so doing—When the supreme authority is disobeyed, the government must lose its energy and effect, and of course the Empire must be shaken to its very foundation.

A government which is but half executed, or whose operations may all be stopped by a single vote, is the most dangerous of all institutions.—See the present Poland, and ancient Greece buried in ruins, in consequence of this fatal error in their policy. A government which has not energy and effect, can never afford protection or security to its subjects, *i. e.*, must ever be ineffectual to its own ends.

I cannot therefore admit, that the great ends of our Union should lie at the mercy of a single State, or that the energy of our government should be checked by a single disobedience, or that such disobedience should ever be sheltered from censure and punishment; the consequences is too capital, too fatal to be admitted. Even though I know very well that a supreme authority, with all its dignity and importance, is subject to passions like other lesser powers, that they may be and often are heated, violent, oppressive, and very tyrannical; yet I know also, that perfection is not to be hoped for

in this life, and we must take all institutions with their natural defects, or reject them altogether: I will guard against these abuses of power as far as possible, but I cannot give up all government, or destroy its necessary energy, for fear of these abuses.

But to fence them out as far as possible, and to give the States as great a check on the supreme authority, as can consist with its necessary energy and effect,

I propose that any State may petition Congress to repeal any law or decision which they have made, and if more than half the States do this, the law or decision shall be repealed, let its nature or importance be however great, excepting only such acts as create funds for the public credit, which shall never be repealed till their end is effected, or other funds equally effectual are substituted in their place; but Congress shall not be obliged to repeal any of these acts, so petitioned against, till they have time to lay the reasons of such acts before such petitioning States, and to receive their answer; because such petitions may arise from sudden heats, popular prejudices, or the publication of matters false in fact, and may require time and means of cool reflection and the fullest information, before the final decision is made: but if after all more than half of the States persist in their demand of a repeal, it shall take place.

The reason is, the uneasiness of a majority of States affords a strong presumption that the act is wrong, for uneasiness arises much more frequently from wrong than right; but if the act was good and right, it would still be better to repeal and lose it, than to force the execution of it against the opinion of a major part of the States; and lastly, if every act of Congress is subject to this repeal, Congress itself will have stronger inducement not only to examine well the several acts under their consideration, but also to communicate the reasons of them to the States, than they would have if their simple vote gave the final stamp of irrevocable authority to their acts.

Further I propose, that if the execution of any act or order of the supreme authority shall be opposed by force in any of the States (which God forbid) it shall be lawful for Congress to send into such State a sufficient force to suppress it.

On the whole, I take it that the very existence and use of our union essentially depends on the full energy and final

effect of the laws made to support it; and therefore I sacrifice all other considerations to this energy and effect, and if our Union is not worth this purchase, we must give it up—the nature of the thing does not admit of any other alternative.

I do contend that our Union is worth this purchase—with it, every individual rests secure under its protection against foreign or domestic insult and oppression—without it, we can have no security against the oppression, insult, and invasion of foreign powers; for no single State is of importance enough to be an object of treaty with them, nor, if it was, could it bear the expense of such treaties, or support any character or respect in a dissevered state, but must lose all respectability among the nations abroad.

We have a very extensive trade, which cannot be carried on with security and advantage, without treaties of commerce and alliance with foreign nations.

We have an extensive western territory which cannot otherwise be defended against the invasion of foreign nations, bordering on our frontiers, who will cover it with their own inhabitants, and we shall loose it forever, and our extent of empire be thereby restrained; and what is worse, their numerous posterity will in future time drive ours into the sea, as the Goths and Vandals formerly conquered the Romans in like circumstances, unless we have the force of the union to repel such invasions. We have, without the union, no security against the inroads and wars of one State upon another, by which our wealth and strength, as well as ease and comfort, will be devoured by enemies growing out of our own bowels.

I conclude then, that our union is not only of the most essential consequence to the well-being of the States in general but to that of every individual citizen of them, and of course ought to be supported, and made as useful and safe as possible, by a Constitution which admits that full energy and final effect of government which alone can secure its great ends and uses.

In a dissertation of this sort, I would not wish to descend to minutiæ, yet there are some small matters which have important consequences, and therefore ought to be noticed. It is necessary that Congress should have all usual and necessary powers of self-preservation and order, *e. g.*, to imprison for contempt, insult, or interruption, etc., and to

expel their own members for due causes, among which I would rank that of non-attendance on the house, or partial attendance without such excuse as shall satisfy the house.

Where there is such vast authority and trust devolved on Congress, and the grand and most important interests of the Empire rest on their decisions, it appears to me highly unreasonable that we should suffer their august consultations to be suspended, or their dignity, authority, and influence lessened by the idleness, neglect, and non-attendance of its members; for we know that the acts of a thin house do not usually carry with them the same degree of weight and respect as those of a full house.

Besides I think, when a man is deputed a delegate in Congress, and has undertaken the business, the whole Empire becomes of course possessed of a right to his best and constant services, which if any member refuses or neglects, the Empire is injured and ought to resent the injury, at least so far as to expel and send him home, that so his place may be better supplied.

I have one argument in favor of my whole plan, viz, it is so formed that no men of dull intellects, or small knowledge, or of habits too idle for constant attendance, or close and steady attention, can do the business with any tolerable degree of respectability, nor can they find either honor, profit, or satisfaction in being there, and of course, I could wish that the choice of the electors might never fall on such a man, or if it should, that he might have sense enough (of pain at least, if not of shame) to decline his acceptance.

For after all that can be done, I do not think that a good administration depends wholly on a good Constitution and good laws, for insufficient or bad men will always make bad work, and a bad administration, let the Constitution and laws be ever so good; the management of able, faithful, and upright men alone can cause an administration to brighten, and the dignity and wisdom of an Empire to rise into respect; make truth the line and measure of public decision; give weight and authority to the government, and security and peace to the subject.

We now hope that we are on the close of a war of mighty effort and great distress, against the greatest power on earth, whetted into the most keen resentment and savage fierceness, which can be excited by wounded pride, and which usually

rises higher between brother and brother offended, than between strangers in contest. Twelve of the Thirteen United States have felt the actual and cruel invasions of the enemy, and eleven of our capitals have been under their power, first or last, during the dreadful conflict; but a good Providence, our own virtue and firmness, and the help of our friends, have enabled us to rise superior to all the power of our adversaries, and made them seek to be at peace with us.

During the extreme pressures of the war, indeed many errors in our administration have been committed, when we could not have experience and time for reflection, to make us wise; but these will easily be excused, forgiven, and forgotten, if we can now, while at leisure, find virtue, wisdom, and foresight enough to correct them, and form such establishments, as shall secure the great ends of our union, and give dignity, force, utility, and permanency to our Empire.

It is a pity we should lose the honor and blessings which have cost us so dear, for want of wisdom and firmness, in measures, which are essential to our preservation. It is now at our option, either to fall back into our original atoms, or form such an union, as shall command the respect of the world, and give honor and security to our people.

This vast subject lies with mighty weight on my mind, and I have bestowed on it my utmost attention, and here offer the public the best thoughts and sentiments I am master of. I have confined myself in this dissertation entirely to the nature, reason, and truth of my subject, without once adverting to the reception it might meet with from men of different prejudices or interests. To find the truth, not to carry a point, has been my object.

I have not the vanity to imagine that my sentiments may be adopted; I shall have all the reward I wish or expect, if my dissertation shall throw any light on the great subject, shall excite an emulation of inquiry, and animate some abler genius to form a plan of greater perfection, less objectionable, and more useful.

NOTES APPENDED BY PELATIAH WEBSTER TO THE REPUBLICATION MADE AT PHILADELPHIA IN 1791.

NOTE 1.

1. Forming a plan of confederation, or a system of general government of the United States, engrossed the attention of Congress from the declaration of independence, July 4, 1776, till the same was completed by Congress, July 9, 1778, and recommended to the several States for ratification, which finally took place, March 1, 1781; from which time the said confederation was considered as the grand constitution of the general government, and the whole administration was conformed to it.

And as it had stood the test of discussion in Congress for two years, before they completed and adopted it, and in all the States for three years more, before it was finally ratified, one would have thought that it must have been a very finished and perfect plan of government.

But on trial of it in practice, it was found to be extremely weak, defective, totally inefficient, and altogether inadequate to its great ends and purposes. For,

1. It blended the legislative and executive powers together in one body.

2. This body, viz, Congress, consisted of but one house, without any check upon their resolutions.

3. The powers of Congress in very few instances were definitive and final; in the most important articles of government they could do no more than recommend to the several States; the consent of every one of which was necessary to give legal sanction to any act so recommended.

4. They could assess and levy no taxes.

5. They could institute and execute no punishments, except in the military department.

6. They had no power of deciding or controlling the contentions and disputes of different States with each other.

7. They could not regulate the general trade: or,

8. Even make laws to secure either public treaties with foreign States, or the persons of public ambassadors, or to punish violations or injuries done to either of them.

9. They could institute no general judiciary powers.

10. They could regulate no public roads, canals, or inland navigation, etc., etc., etc.

And what caps all the rest was, that (whilst under such an inefficient political constitution, the only chance we had of any tolerable administration lay wholly in the prudence and wisdom of the men who happened to take the lead in our public councils) it was fatally provided by the absurd doctrine of rotation, that if any Member of Congress by three years' experience and application, had qualified himself to manage our public affairs with consistency and fitness, that he should be constitutionally and absolutely rendered incapable of serving any longer, till by three years' discontinuance, he had pretty well lost the cue or train of the public counsels, and forgot the ideas and plans which made his service useful and important; and, in the mean time, his place should be supplied by a fresh man, who had the whole matter to learn, and when he had learned it, was to give place to another fresh man; and so on to the end of the chapter.

The sensible mind of the United States, by long experience of the fatal mischiefs of anarchy, or (which is about the same thing) of this ridiculous, inefficient form of government, began to apprehend that there was something wrong in our policy, which ought to be redressed and mended; but nobody undertook to delineate the necessary amendments.

I was then pretty much at leisure, and was fully of opinion (though the sentiment at that time would not very well bear) that it would be ten times easier to form a new constitution than to mend the old one. I therefore sat myself down to sketch out the leading principles of that political constitution, which I thought necessary to the preservation and happiness of the United States of America, which are comprised in this Dissertation.

I hope the reader will please to consider, that these are the original thoughts of a private individual, dictated by the nature of the subject only, long before the important theme became the great object of discussion, in the most dignified and important assembly, which ever sat or decided in America.

Note 2.

At the time when this Dissertation was written (Feb. 16, 1783) the defects and insufficiency of the Old Federal Constitution were universally felt and acknowledged; it was manifest, not only that the internal police, justice, security and peace of the States could never be preserved under it, but the finances and public credit would necessarily become so embarrassed, precarious, and void of support, that no public movement, which depended on the revenue, could be managed with any effectual certainty: but though the public mind was under full conviction of all these mischiefs, and was contemplating a remedy, yet the public ideas were not at all concentrated, much less arranged into any new system or form of government, which would obviate these evils. Under these circumstances I offered this Dissertation to the public: how far the principles of it were adopted or rejected in the New Constitution, which was four years afterwards (Sept. 17, 1787) formed by the General Convention, and since ratified by all the States, is obvious to every one.

I wish here to remark the great particulars of my plan which were rejected by the Convention.

1. My plan was to keep the legislative and executive departments entirely distinct; the one to consist of the two houses of Congress, the other to rest entirely in the Grand Council of State.

2. I proposed to introduce a Chamber of Commerce, to consist of merchants, who should be consulted by the legislature in all matters of trade and revenue, and which should have the conducting the revenue committed to them.

The first of these the Convention qualified; the second they say nothing of, *i. e.*, take no notice of it.

3. I proposed that the great officers of state should have the perusal of all bills, before they were enacted into laws, and should be required to give their opinion of them, as far as they affected the public interest in their several departments; which report of them Congress should cause to be read in their respective houses, and entered on their minutes. This is passed over without notice.

4. I proposed that all public officers appointed by the executive authority, should be amenable both to them and

to the legislative power, and removable for just cause by either of them. This is qualified by the Convention.

And in as much as my sentiments in these respects were either qualified or totally neglected by the Convention, I suppose they were wrong; however, the whole matter is submitted to the politicians of the present age, and to our posterity in future.

In sundry other things, the Convention have gone into minutiæ, *e. g.*, respecting elections of President, Senators, and Representatives in Congress, etc., which I proposed to leave at large to the wisdom and discretion of Congress, and of the several States.

Great reasons may doubtless be assigned for their decision, and perhaps some little ones for mine. Time, the great arbiter of all human plans, may, after a while, give his decision; but neither the Convention nor myself will probably live to feel either the exultation or mortification of his approbation or disapprobation of either of our plans.

But if any of these questions should in future time become objects of discussion, neither the vast dignity of the Convention, nor the low, unnoticed state of myself, will be at all considered in the debates; the merits of the matter, and the interests connected with or arising out of it, will alone dictate the decision.

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